

AMENDED IN ASSEMBLY MARCH 5, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 225

Introduced by Assembly Member Beall

January 29, 2007

An act to amend Section 653m of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 225, as amended, Beall. Crime.

Existing law provides that it is a crime punishable by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding 6 months, or by both that fine and imprisonment, for any person to make repeated telephone calls or contacts with intent to annoy another person at his or her residence. Existing law also provides that it is a crime punishable by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment to make such calls or contacts to a person at his or her place of work if there is a court order in effect prohibiting this behavior or more than 10 contacts are made in a 24-hour period and they are made to the workplace of a person with a specified familial or personal relationship with the defendant.

This bill would delete the latter provisions and instead provide that any person who makes 5 or more ~~repeated~~ contacts within a 24-hour period by *telephone or by* means of an electronic device, as defined, with intent to annoy another person is punishable by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding ~~6 months~~ *one year*, or by both that fine and imprisonment. This bill would also provide that these provisions are violated if any person knowingly

permits any telephone or electronic device under his or her control to be used to commit the prohibited acts.

By expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 653m of the Penal Code is amended to
2 read:

3 653m. (a) Every person who, with intent to annoy, telephones
4 or makes contact by means of an electronic communication device
5 with another and addresses to or about the other person any obscene
6 language or addresses to the other person any threat to inflict injury
7 to the person or property of the person addressed or any member
8 of his or her family, is guilty of a misdemeanor. Nothing in this
9 subdivision shall apply to telephone calls or electronic contacts
10 made in good faith or during the ordinary course and scope of
11 business.

12 (b) Every person who makes five or more ~~repeated~~ contacts
13 within a 24-hour period *by telephone or* by means of an electronic
14 communication device with intent to annoy another person, is,
15 whether or not conversation ensues from making the telephone
16 call or electronic contact, guilty of a misdemeanor *punishable by*
17 *a fine of not more than one thousand dollars (\$1,000) or by*
18 *imprisonment in a county jail for up to one year, or by both that*
19 *fine and imprisonment.* Nothing in this subdivision shall apply to
20 telephone calls or electronic contacts made in good faith or during
21 the ordinary course and scope of business.

22 (c) Any offense committed by use of a telephone may be deemed
23 to have been committed where the telephone call or calls were
24 made or received. Any offense committed by use of an electronic
25 communication device or medium, including the Internet, may be
26 deemed to have been committed when and where the electronic

1 communication or communications were originally sent or first
2 viewed by the recipient.

3 (d) Subdivision (a) or (b) is violated when the person acting
4 with intent to annoy makes a telephone call or electronic contact
5 requesting a return call or return electronic contact and performs
6 the acts prohibited under subdivision (a) or (b) upon receiving the
7 return call or return electronic contact.

8 (e) Subdivision (a) or (b) is also violated if a person knowingly
9 permits any telephone or electronic device under his or her control
10 to be used to violate those subdivisions.

11 (f) If probation is granted, or the execution or imposition of
12 sentence is suspended, for any person convicted under this section,
13 the court may order as a condition of probation that the person
14 participate in counseling.

15 (g) For purposes of this section, the term “electronic
16 communication device” includes, but is not limited to, telephones,
17 cellular phones, computers, video recorders, fax machines, or
18 pagers. “Electronic communication” has the same meaning as the
19 term defined in Subsection 12 of Section 2510 of Title 18 of the
20 United States Code.

21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.